

1 extent that it would qualify as a brief. They just need
2 to have certain facts in the petition and --

3 MR. KOCH: That's fine.

4 MR. THOMPSON: Okay.

5 MR. KOCH: But what I'm really getting at is
6 that the opening brief seems to be in 3360 and is filed
7 by the government rather than petitioner.

8 MR. THOMPSON: That's correct, because the
9 petition is what starts this process.

10 MR. KOCH: Well, I understand that, but
11 sometimes an appeal starts -- the appeal process in court
12 anyway, and the appellant normally files the opening
13 brief.

14 MS. RUWART: Is it fair -- this is Carole
15 Ruwart. Is it fair to say, Property Tax Division folks,
16 that while technically the law only requires a petition,
17 really it often comes in the form of an opening brief in
18 terms of length, level of detail, and that the Valuation
19 Division or the staff's reply is more in the form of a
20 reply, it's not truly an opening brief? I know in the
21 state assessee process, that certainly seems to be true.

22 MS. THOMPSON: Yeah.

23 MS. RUWART: And it's not as he is implying that
24 it describes where the staff starts the process with the
25 first official brief.

1 MS. THOMPSON: Right. I mean, the petition
2 outlines kind of all the elements that are under
3 controversy. And the brief would be, you know, done by,
4 you know, internal staff and not them. But I'm sure that
5 the petitioner might actually submit something that's
6 very similar to a brief, you know, with its petition. I
7 mean, my understanding is they can have any attachments
8 with it.

9 MS. RUWART: And in fact --

10 MS. THOMPSON: We haven't had too many Welfare
11 appeals, but those that are, it's pretty lengthy, the
12 submissions.

13 MS. RUWART: And, yeah, in fact they are
14 required to support all of their points --

15 MS. THOMPSON: Right.

16 MS. RUWART: -- to the level of detail that you
17 would be required to do and what everybody else in the
18 legal world would consider a brief.

19 MR. KOCH: Well, all I'm --

20 MS. RUWART: Is that true? Do you have any
21 experience otherwise?

22 MR. KOCH: I'm just suggesting that you might
23 flesh that out a little bit in 3332 to say that the
24 petition may or may not include a brief at the option of
25 the petitioner.

1 MS. PELLEGRINI: Carole, you may want to take
2 some of the wording from Part 4 under Franchise, page 8
3 which talks about the appeal, and comes in saying it's
4 considered the taxpayer's opening brief. And that would
5 take into both considerations.

6 MS. RUWART: What was that reference again?

7 MS. PELLEGRINI: Page 8, Part 4, Section --

8 MR. RUBIN: It's 4031.

9 MS. PELLEGRINI: -- 4031.

10 MS. RUWART: Okay, I'm happy to do that and see
11 how applicable that language is.

12 MR. KOCH: I haven't read it myself.

13 MS. RUWART: Okay.

14 MS. PELLEGRINI: Any other comments on 3360
15 briefs, page 20, 21?

16 MS. RUWART: One of the things that -- this is
17 Carole Ruwart -- I would like to actually hold that
18 comment. I'll wait till 3361. Go ahead.

19 MS. PELLEGRINI: 3361, Appeals Division
20 Analysis.

21 MS. RUWART: This is Carole Ruwart. The comment
22 I'd like to make is that the way that this is set up, it
23 appears that the Appeals Division makes an analysis based
24 on the briefs. And it sounds like, consistent with
25 further direction, we'd like to consider making at least

1 an option of having a formal, live appeals conference
2 held by -- the Appeals Division attorney?

3 MS. THOMPSON: That's consistent with what we've
4 had before, and we've had, like -- I mean, they've had
5 live appeal hearings.

6 MS. RUWART: Right, but it's been with staff
7 attorneys. That was more like 3340, the prehearing
8 conference, like that?

9 MS. THOMPSON: Uh-huh, it was with just staff
10 attorneys, mostly, and their clients. And sometimes,
11 depending who is involved, then like the division staff
12 would attend as well. So under the new regime I'm not
13 sure how that would happen, but it sounds like it's just
14 the actual Appeals Division who would be handling those.

15 MR. KOCH: Carole, I'm not understanding that
16 quite. Could you explain? Al Koch.

17 MS. RUWART: Yes, I will explain. When this
18 division was drafted with the input of things as they
19 currently were, it provides in 3340 for a prehearing
20 conference with the Tax and Fee Program of the Legal
21 Division.

22 MR. KOCH: Yes.

23 MS. RUWART: And not with -- and then later
24 after the appeals conference and briefing, in 3361 the
25 Appeals Division will, as plainly provided, take all the

1 material and provide an independent analysis.

2 There's no specific provision for an oral
3 appeals conference of the kind that we talked about
4 providing in the state assessee context, and others. So
5 that is -- I think that we're getting some direction that
6 there should at least be an option for a live conference
7 with an Appeals Division attorney in addition to the
8 ability for the petitioner to confer with the staff
9 attorneys.

10 MS. THOMPSON: Right.

11 MS. RUWART: And it sounds like the Welfare
12 Exemption unit, Lisa Thompson is --

13 MS. THOMPSON: Yeah, we would support that. I
14 mean, it should be consistent.

15 MS. RUWART: It should all be -- that's what I'm
16 saying is --

17 MS. THOMPSON: I mean, that's the ultimate --

18 MS. RUWART: Yeah, it should be consistent. And
19 I would -- unless there's great objection, I would expect
20 that that would be a revision that would come in the next
21 version.

22 MR. KOCH: Is that something that the petitioner
23 could waive, or is it something that the --

24 MS. RUWART: I -- my take on it would be that it
25 would always be at the option of the petitioner. The

1 petitioner would need to request it.

2 MR. KOCH: Yeah.

3 MS. RUWART: And a petitioner does not have to
4 have it.

5 MR. KOCH: Right.

6 MR. HUDSON: And granting it may or may not be
7 optional to the Appeals Division, depending on their
8 other responsibilities?

9 MS. RUWART: I don't know, but we could put that
10 in there as well. That would be a good --

11 MR. HUDSON: Well, I'm not sure what I want --
12 Tom Hudson. But I think Bill Leonard's preference, and
13 I'm not sure if this applies in every case, but I think
14 his preference would be that that opportunity be
15 available, you know, to every petitioner.

16 The only question that comes up, and I'm not
17 sure, you know, if he's resolved this in his own mind yet
18 either, is because of these deadlines, they may not be
19 able to physically accommodate that.

20 MR. THOMPSON: You know, I'd like to point out
21 that you don't have the strict deadlines. In Assessment
22 -- in Valuation and in state Assess, we have strict
23 deadlines. We don't have those strict deadlines here.

24 The assessors, I'm sure, would like to have this
25 resolved as soon as possible, because they are sending

1 out rolls and stuff. But we don't have that December
2 31st staring you in the face on these Welfare Exemption
3 claims.

4 MS. PELLEGRINI: The other option that needs to
5 be considered, Carole, is with the Business Tax, in an
6 appeals conference, if the taxpayer waives attending the
7 appeals conference, it's still held with the department.
8 So you need to work out those differences.

9 And I think that's more what you were bringing
10 up is -- and Mr. Koch was also bringing up is -- would it
11 still be held, or would just Appeals then take the
12 written information and not bring the department in for a
13 discussion?

14 MS. RUWART: My sense of it is the latter, that
15 the Appeals Division would be in almost all cases
16 perfectly able to decide matters on the writings. But if
17 the petitioner should wish a real-time conference, then
18 we want to have that option.

19 MS. PELLEGRINI: And we should make that clear
20 in here given how the Business Tax and Special Tax is
21 written.

22 MS. RUWART: Right. Because this -- exactly. I
23 think that's a good point. And the other point is
24 whether the Department should have the ability to request
25 a conference as well.

1 MR. KOCH: Sure.

2 MS. RUWART: I have no feelings about that, but
3 it's clearly there in some situations, at least one of
4 the parties seems to see some value in getting everybody
5 in the same room at the same time with a live attorney.
6 So when I say, "in the same room," I mean virtually
7 speaking, of course.

8 MS. PELLEGRINI: Any other comments on 3361?

9 MR. KOCH: I had one other, and refresh my
10 recollection, but I thought in the state assessee
11 context, the state was to distribute the documentation to
12 the private parties. I wonder if that could be put in
13 here.

14 MS. RUWART: If you will look at 3371,
15 Distribution of Documents, I think the concern is
16 addressed.

17 MR. KOCH: Yeah, that's 10 days before. Is that
18 the same thing you do with the appellate -- I mean with
19 the state assessees?

20 MS. RUWART: I don't -- is it?

21 MR. EVANS: Yes.

22 MS. RUWART: Gary Evans says yes.

23 MR. KOCH: Okay, that's fine.

24 MS. PELLEGRINI: We are now on page 22, 3370,
25 Scheduling of Hearing or Board Action.

1 3371, Distribution of Documents.

2 3372, Oral Hearing Procedures. Yes?

3 MR. RUBIN: Bob Rubin. I just want to note that
4 it's possible to have trade secret issues here, too,
5 complicated by the fact that the Revenue and Taxation
6 Code says that the claims for the Welfare Exemption
7 should be a public document. And I think it's Board
8 policy that --

9 MS. THOMPSON: Anything submitted with a claim
10 is open for public inspection, yes.

11 MR. RUBIN: And I presume that covers, you know,
12 if there's an inquiry subsequent to the claim being
13 allowed, that that information ...

14 MS. THOMPSON: An inquiry? Like you're saying
15 somebody's Public Records Act request, that sort of claim
16 or --

17 MR. RUBIN: No, no. Let's just say that you
18 have a situation where a claim is allowed, and then, for
19 example, it's a hospital that's made more than 10
20 percent, and there's inquiries about past years. I
21 presume the Board's position is that that information is
22 public also?

23 MS. THOMPSON: It would be. It would be, but if
24 someone was to Public Records Act request it, they would
25 have to be specific in what they were asking for.

1 MR. RUBIN: This is a discussion for the 14th,
2 but the trade secret issues here are complicated by these
3 specific Revenue and Taxation Code provisions.

4 MS. RUWART: That's right. And if you want it
5 to be different, a legislative solution may be your
6 avenue.

7 MS. PELLEGRINI: We are now on 3373, Parties.
8 Moving then to page 23, 3380, Notice of Board Decisions.
9 Any other comments on the Welfare Exemptions?

10 Okay, we are now --

11 MR. KOCH: Well, question. Al Koch, about the
12 rehearing petition. I thought -- and, you know, I am
13 confused about the process for the Welfare Exemption
14 because it's changed since I was -- maybe twice since I
15 have been involved in it directly. But I thought it was
16 jurisdictional that there had to be a request for
17 rehearing in order to proceed judicially.

18 MS. RUWART: Do you want to consider that a
19 formal question that we need to legally address?

20 MR. KOCH: Yeah, I think so. That's my hazy
21 recollection. Under the mandate rules.

22 MR. RUBIN: Bob Rubin. My understanding is that
23 the only way to appeal the denial of an exemption is to
24 pay the tax and file a claim for refund, and file a
25 refund action.

1 MR. KOCH: You may be correct.

2 MS. THOMPSON: Yeah, for a Property Tax thing at
3 county level, if you're talking about property.

4 MR. KOCH: Yeah, that answers it, yeah.

5 MS. THOMPSON: And then you have to file it in
6 Superior Court.

7 MR. KOCH: I'm just off base.

8 MS. THOMPSON: Thing is, is just with respect to
9 the Organizational Clearance Certificate or Supplemental
10 Clearance Certificate saying you, as an entity, qualify.

11 But with respect to each property, you would
12 have to go through the county assessor's office and
13 handle it that way which, as you know, you can't file an
14 appeal with the county assessor on exemptions. So your
15 alternative is, as you said, claim for refund and file in
16 Superior Court.

17 MR. KOCH: I need to look at the statute; I
18 apologize.

19 MS. THOMPSON: No, no. It's changed in the last
20 few years.

21 MR. KOCH: I mean, yes, the statute has changed
22 I think a couple of times, and I haven't caught up with
23 it yet.

24 MS. THOMPSON: It was streamlined in the last
25 few years.

1 MR. KOCH: Oh, yes. But then it had been
2 streamlined about five years earlier as I recall as well,
3 or something was streamlined up here, I guess.

4 MS. RUWART: Any further comments on Welfare
5 Exemption Claim procedures? Again reminding everybody we
6 are happy to take afterthoughts and additional comments
7 in writing, or you can call me any time.

8 But before we go to our last article, the
9 Property Tax Sampling Program regulations, I wanted to
10 provide a brief introduction. These procedures or these
11 proposed regulations are not in any current regulation or
12 publication. The Board previously had either procedures
13 or a regulation, I actually forget which. Because they
14 used to have many of these claims, and then the law was
15 changed to provide a larger tolerance in these
16 calculations.

17 And there are not many or any claims under this
18 program. So what we decided to do was essentially dust
19 off the old procedures and put them in these proposed
20 rules as a matter of completeness.

21 So if any of you have any expertise or memory of
22 the prior procedures, that is most helpful, but you won't
23 find any current references procedurally to these, that
24 it just implements the Government Code -- the Board
25 duties as contained in the Government Code. That said,

1 are there any --

2 MS. PELLEGRINI: Any comments on this page, page
3 23, Article 4, the definitions or the application of
4 article?

5 MS. RUWART: Yes?

6 MR. TANG: Benjamin Tang. This may be moot
7 based on Carole Ruwart and Tom Hudson's discussion about
8 the definitions and the possibility of deleting the
9 definitions; however, I thought I'd point this out. The
10 definition of "party" in Article -- or Part 5 is the
11 taxpayer or taxpayer's representative, and the
12 Department. And for the purposes of this article, it's
13 the assessor and -- or representative, I believe, and the
14 Department. So maybe delete "party."

15 MS. RUWART: Thank you.

16 MS. PELLEGRINI: Page 24 --

17 MR. RUBIN: Since I'm totally clueless about
18 what this is, is this the process that the Board would go
19 through to see if an assessor has under-assessed property
20 and attempt to hold the assessor personally liable for
21 the under-assessed tax?

22 MS. RUWART: No.

23 MR. THOMPSON: Not personally.

24 MR. KAMP: Every five years we do an audit of
25 every assessor; we are required to by some provision of

1 the Government Code, fifteen-six-something, to do that.

2 And in addition to it, just like a journalistic
3 review of what's going on, there's also -- or a GAO-type
4 report, there's also an actual sampling of assessed
5 parcels to see if there's under-assessment or
6 over-assessment. And I guess this is what relates to
7 that.

8 MS. RUWART: Does anybody have any specific --

9 MR. LEBEAU: Mike Lebeau, Board's Legal
10 Department. I managed this program for a while. As
11 Steve said, it's a cyclical compliance audit, if you
12 will, of the county assessors offices.

13 Some of the counties are randomly selected for
14 an assessment sample where they actually pull samples out
15 to do a statistic sample of the assessments to determine
16 whether or not they fall within the statutory compliance
17 threshold, I believe -- what is it, five percent, and
18 absolute differences of seven-and-a-half percent. Some
19 of the absolute differences, excuse me.

20 These are the procedures by which an assessor
21 would appeal each individual appraisal that deviated from
22 his or her assessment of that property. And the
23 resolution of these appeals would correct the assessment
24 as it's used in the statistic sample.

25 MR. RUBIN: Why would an assessor bother to do

1 this?

2 MR. LEBEAU: If the assessor does not meet the
3 statutory threshold, the potential is that his or her
4 office could lose funds related to the administration of
5 the supplemental assessment program. We've only had one
6 county be out of tolerance to this date. Is that --

7 MR. KIDWELL: That's my understanding, yes.

8 MS. PELLEGRINI: Your name, please?

9 MR. KIDWELL: Tom Kidwell, sorry.

10 MR. LEBEAU: So why would an assessor bother?
11 Just to make sure that -- to appeal those --

12 MR. RUBIN: I understand now.

13 MR. KIDWELL: Yeah, state funded. Sorry.

14 MS. PELLEGRINI: With that, we will move to page
15 24, Time for Filing of Petition, 3420. Comments,
16 questions?

17 MR. LEBEAU: Go ahead.

18 MR. TANG: Just a question, I guess.

19 MS. PELLEGRINI: Name, please?

20 MR. TANG: Benjamin Tang. 3420 (c), the last
21 line, "... if a petition is not filed with ..." Should
22 that be "within?" And subdivision (b) instead of (a)?
23 Just a question; I'm not quite sure.

24 MS. RUWART: Probably. And thank you for the
25 edit.

1 MS. PELLEGRINI: 3430, Contents of the Petition?
2 3440, Submission of Petition. We are now on
3 page 25, and we'll make a correction in the address.

4 MR. HUDSON: Tom Hudson. Do you not want to
5 also include the fax and e-mail provisions that we did
6 for everything else?

7 MS. PELLEGRINI: Thank you.

8 MR. THOMPSON: Just for consistency. And I
9 don't think those were in the exemption sections, either.

10 MS. RUWART: Correct, yeah.

11 MR. HUDSON: Oh, good point.

12 MR. THOMPSON: Yeah.

13 MS. RUWART: So that will be global changes.

14 MS. PELLEGRINI: Section 3441, Timeliness of
15 Petition. Okay, 3442, Acknowledgment and Evaluation of
16 Petition.

17 MS. RUWART: This is Carole Ruwart. Just
18 depending on how the prior comments of the state assessee
19 section go, if we determine that acceptance of petition
20 is a better way of formulating that title term, we may
21 change that.

22 MS. PELLEGRINI: And we've also got in (a), "by
23 the Board," and I think before you had a Board
24 Proceedings Division; it's consistency.

25 MR. KOCH: Al Koch. Could be "reviewed"?

1 MS. RUWART: Okay.

2 MS. PELLEGRINI: 3450, Prehearing Conference.

3 MS. RUWART: This is Carole Ruwart. Again, this
4 follows the same format of having a prehearing conference
5 with the Tax and Fee Programs Division, and merely an
6 analysis by the Appeals Division consistent with the
7 other sections. We'll put forth for consideration an
8 optional hearing with the Appeals Division. And so that
9 affects Section 3- -- not so much 3450, but 3461.

10 MR. KOCH: Al Koch. Is this 3450?

11 MS. RUWART: 3450 is on page 25. I was just
12 noticing it's a prehearing conference again with the Tax
13 and --

14 MS. CROCETTE: This is Sabina Crocette, sorry,
15 back on the line.

16 MS. RUWART: Hello.

17 MS. PELLEGRINI: Thank you.

18 MS. RUWART: 3450 is the prehearing conference
19 with the Tax and Fee Program Division.

20 MR. KOCH: Yeah. A question I have, the
21 hearings I've been involved in on allocation issues, I
22 don't think there's been one factual question that's come
23 up of much importance, with one exception. And that was
24 a fact that we discovered five days before the hearing.
25 So I'm just wondering if newly discovered evidence, et

1 cetera, could be considered and certainly should be
2 considered if it's relevant, in some way. There should
3 be some safety valve for that.

4 MS. PELLEGRINI: And I think your comment runs,
5 as Carole said, global.

6 MR. KOCH: Across the board, yeah.

7 MS. RUWART: Okay.

8 MS. PELLEGRINI: Okay, we are on page 26, and
9 are there any comments on 3451, Waiver of Oral Hearing,
10 and the next section would be Briefs, 3460.

11 MR. RUBIN: Probably the county counselor or
12 whoever is representing the assessor would like more than
13 15 days to file a reply brief.

14 MS. PELLEGRINI: And is your suggestion similar
15 to --

16 MR. RUBIN: Thirty days seems reasonable to me.

17 MS. PELLEGRINI: We're now on 3461, Appeals
18 Division Analysis. Besides Carole's comment of adding
19 comments for an appeals conference, any other comments on
20 this section on page 26, 27?

21 MR. HUDSON: Tom Hudson. One question I just
22 have because I've never seen one of these before but it
23 says, "The petitioner shall receive 60 days notice of the
24 date and time of the hearing or other scheduled Board
25 action." Is 60 days kind of a long time? I mean, we

1 only give them 15 days to respond to a brief, but 60 days
2 to calendar the hearing?

3 MS. RUWART: I'm sorry, is this a comment on
4 3470?

5 MR. HUDSON: Yes. Oh, did I jump ahead? Sorry.
6 I thought you said both pages.

7 MS. RUWART: Well, that's okay. Are we done
8 with 3461?

9 MR. THOMPSON: That is standard across all the
10 tax programs except for state assessment, where 45 days
11 is, I think --

12 MS. PELLEGRINI: In actuality, we try to mail
13 them 82 days beforehand.

14 MR. HUDSON: Wow, okay.

15 MS. PELLEGRINI: Sixty becomes our deadline.

16 MR. EVANS: Gary Evans. And there's no time --
17 this isn't time sensitive; this doesn't have to be done
18 by the end of the year. So the briefing could be
19 extended and some of these time frames could be more in
20 line with some of our other tax programs.

21 MR. LEBEAU: Mike Lebeau, Board's Legal
22 Department. There is a statutory two-year deadline from
23 the moment that the compliance auditor or assessment
24 practices survey begins to when the report must be
25 published. So even though it's not subject to the tight

1 deadlines of the Valuation Division's state assessment
2 process, there is definitely a deadline at the end of
3 this process as well.

4 MS. RUWART: I'll review those provisions and
5 see if there's something --

6 MR. THOMPSON: Excuse me. Mike, does this
7 process have to be resolved before the report is
8 published? The time line?

9 MR. LEBEAU: The report is required in two
10 years, and the assessment -- as far as I'm aware, the
11 assessment sample report is usually contained in the
12 survey report itself.

13 MR. THOMPSON: So just on logistics, would you
14 wait for the appeal to be resolved before the report was
15 issued, then?

16 MR. LEBEAU: I'm not managing that unit now,
17 but ...

18 MS. RUWART: We can look into that --

19 MR. FONG: Yeah, we better look into that.

20 MS. RUWART: -- and see if there's something for
21 completeness or clarity that we may wish to add.

22 MS. PELLEGRINI: Your name, please?

23 MR. FONG: Arnold Fong.

24 MR. LEBEAU: Mike Lebeau here for just another
25 thought. By the time the assessment sample is complete,

1 we're usually about six months out, is that --

2 MR. FONG: Uh-huh.

3 MR. LEBEAU: -- is that a fair statement?

4 MR. FONG: Yes.

5 MR. LEBEAU: About six months out. So there is
6 about year and a half left to complete this process. But
7 the narrative is usually researched first, usually the
8 first two months, two-and-a-half, three months. Then the
9 assessment sample usually takes another three months. So
10 our assessment sample is complete about six months after
11 the beginning of the survey.

12 MS. PELLEGRINI: Any other comments on -- that
13 was on the Scheduling, 3470.

14 Distribution of Documents, 3471. We will now
15 move to 3472, Oral Hearing Procedures. This continues on
16 to page 28. Yes.

17 MR. RUBIN: Reacting to Mr. Koch's comment about
18 the discovery of last-minute evidence, Rule 5014 talks
19 about the Board encourages documentary evidence to be
20 submitted not less than 14 days prior to the hearing.
21 The hearing may not be delayed due to the submission of
22 documentary evidence at the hearing.

23 In my experience, occasionally last-minute
24 evidence will come up. You exchange it with the other
25 side immediately, and you produce it at the hearing.

1 There's no contemplation of a change in the
2 procedures that we've always been using, right? So, Al,
3 if you came up with evidence, you know, five days before
4 the hearing, you'd send it to staff and then offer it
5 into evidence at the hearing.

6 MR. KOCH: Yeah. Sometimes, I think on only one
7 occasion I can remember -- Al Koch -- it was almost the
8 day before. I mean, it was very dramatic.

9 MS. PELLEGRINI: This is Debbie. In fact, the
10 Board would mostly prefer you -- if it's five, four, or
11 three days before, to get it to us then.

12 MR. KOCH: Whatever.

13 MS. PELLEGRINI: Do not bring it -- if you have
14 it before, bring it to the Board. But if you only got it
15 the night before and you only had it to bring to the
16 Board then, we still accept it.

17 MS. RUWART: Also, if I may speak for Board
18 Proceedings Division, it appears from my own experience
19 that it is very fine to give the information to the
20 staff, to the Board members, to whoever, but if you want
21 to ensure that everybody who's supposed to get it at
22 least is attempted to get it, then you would give the
23 material to the Board Proceedings Division, who is the
24 only one who has the comprehensive list of everywhere
25 it's supposed to go.

1 MS. MANDEL: And that's the only official place
2 to file stuff anyway.

3 MS. RUWART: And that's the only official place
4 to file it.

5 MS. MANDEL: So for those people who will only
6 make a decision based on the record, I can tell you,
7 Board Proceedings better have it.

8 MS. RUWART: I personally consider anything else
9 to be a courtesy copy. It really needs to come through
10 the Board Proceedings Division. And maybe that's
11 something we should make more clear in the general Board
12 hearing procedures, which you're -- you're reading off --
13 if you're reading 5014, you're reading the existing
14 regulations. In December we will discuss Part 5, the
15 general hearing procedures, which have been substantially
16 revised and written for more clarity.

17 Are there any further comments on 3472?

18 MS. PELLEGRINI: 3473, Parties?

19 MS. RUWART: I believe this addresses Mr. Tang's
20 comment, but he caught the potential discrepancy between
21 the terms, which I appreciate.

22 MS. PELLEGRINI: And the last section is 3474,
23 Notice of Board Action.

24 MR. KIDWELL: Tom Kidwell, I'm -- the California
25 Assessors Association Executive Committee had a number of

1 questions that flow, I believe, from this section. We
2 would ask first, in order for the Board to make a
3 determination of value, does that have any effect on the
4 local rolls?

5 MS. MANDEL: Wait, say that again? I'm sorry.

6 MR. KIDWELL: Is the Board asserting that any
7 valuation determination that they would make would affect
8 the local roll? Would it change the value for the
9 taxpayer? My sense is not, but I just wanted to be
10 clear.

11 MS. MANDEL: Is this notice of Board action just
12 on --

13 MR. KOCH: On the sampling.

14 MS. MANDEL: Oh, on sampling, I see.

15 MR. KIDWELL: It's not like a local assessment
16 appeal whereby whatever decision is arrived at then
17 becomes the taxable value; this is just the Board's
18 determination that, for the purposes of this survey, this
19 value should be applied for what ultimately becomes the
20 supplemental -- what's the word, funding for the office?

21 MS. RUWART: Mr. Kidwell, I would like to get
22 back to you on that.

23 MR. KIDWELL: Sure.

24 MS. RUWART: Because I am not sure that that is
25 correct. So I would like to verify one way or the other

1 whether the Board's action in one of these appeals would,
2 in fact, potentially change an assessment and therefore
3 the local roll. I'm not certain of what the answer is.

4 MR. KIDWELL: Tom Kidwell again. What would
5 follow from that, then, is with the notice to the
6 property owner, would that, then, open it up for them to
7 file an assessment appeal locally? You see the --

8 MS. RUWART: Yes, I do.

9 MR. KIDWELL: Okay.

10 MS. RUWART: And I know that in drafting these
11 provisions, I did have discussions with Sherrie Kinkle
12 who brought up these, and we talked --

13 MR. KIDWELL: Okay.

14 MS. RUWART: I know we had talks about that, and
15 I just can't remember exactly how that came out, because
16 I've never done this particular program.

17 MR. KIDWELL: And lastly, what I would suggest
18 is that item (b) be eliminated, and that instead of the
19 assessor notifying the property owner, perhaps the Board
20 could notify everyone of what their determination is?

21 MS. RUWART: I will see if that is possible.
22 Don't know exactly where that requirement comes from, or
23 whether that's a requirement or a procedure.

24 MR. KIDWELL: If it's not a requirement, let's
25 not do it.

1 MS. RUWART: Okay. So you would prefer the
2 Board notify everybody, if it's at all possible. And it
3 certainly makes sense.

4 MR. KIDWELL: If it's their determination, yes.

5 MR. HUDSON: Tom Hudson. Could I just as --
6 because I've never seen this program in operation, but is
7 there a reason why we're even telling the taxpayer if it
8 doesn't affect their tax roll? Gosh, talk about -- I
9 mean, it generates questions, you know.

10 MS. RUWART: Let me -- I think I should do a
11 little more research. Unfortunately, Michael had to
12 leave, and I think he probably knows the answer to this
13 question.

14 Yes, sir.

15 MR. RUBIN: Bob Rubin. I mean, if the Board
16 determined that the property was materially over-
17 assessed, the property owner might be interested in
18 knowing that. Not if it was the other way around.

19 MR. KIDWELL: Well, realistically, then, you
20 have to consider if the Board's sample is now two years
21 old and they technically now audit the --

22 MR. RUBIN: Right. Under the normal rules, it's
23 not going to do the taxpayer any good for the past year.

24 MR. KIDWELL: Right.

25 MR. KOCH: Prospective.

1 MR. RUBIN: Well, it also occurs to me that
2 there are -- there's a trade secret issue here, too,
3 because I would presume that the assessor is going to use
4 the information that's in the assessor's file to support
5 the assessor's value. And just thinking about Revenue
6 and Taxation Code 408, I'm not sure that would be allowed
7 in a public hearing. I think 408 doesn't allow the
8 assessor to disclose information obtained from an
9 assessee, absent a court order.

10 MS. RUWART: It's a good question. Let me find
11 out even more. I'm glad these questions have come up.
12 And as I said, we haven't had one of these in a long,
13 long time, which probably makes it a good time to make
14 sure we have good procedures.

15 MR. RUBIN: I mean, I know in lots of local
16 appeals, there's all kinds of trade secrets. And here
17 there could be a public proceeding next door, and all
18 these trade secrets could be coming out.

19 MS. MANDEL: But the taxpayer isn't --

20 MR. RUBIN: He's not even a party.

21 MR. SUTTER: Mark Sutter, Taxpayer Rights. Is
22 there ever a situation where the assessor puts one value
23 on the roll, but when it comes to the time of the
24 sampling would challenge the value and try to use a
25 different value for the sample? Is he required to use

1 the same value?

2 MR. KIDWELL: If the value is on the rolls,
3 that's the value. I wouldn't consider changing it
4 without having some challenge one way or the other,
5 either from the Assessment Appeals Board itself or the
6 taxpayer.

7 MR. SUTTER: Well, my concern is -- Mark Sutter
8 again -- if the taxpayer isn't even aware that this is
9 going on, and the assessor on one hand, on the roll puts
10 the value on at one number and then is trying to convince
11 the Board in the sampling program it has to be a
12 different value, then the taxpayer definitely needs to be
13 notified.

14 MS. RUWART: I will find out more. I'm sorry, I
15 had the details at one point in time, and it was several
16 months ago. And I will find out more. I do understand
17 that prior to the statutory change that there were many
18 of these appeals. This often happened. And so there
19 were whatever issues that we all bring up have likely
20 been asked and answered at some point in time. So I will
21 find out, and where it's appropriate, update the
22 regulations to address the concerns.

23 MS. PELLEGRINI: And the last area we have here
24 is a form. Were there any comments on the form?

25 MS. MANDEL: This would be the form the assessor

1 uses to file his appeal?

2 MS. PELLEGRINI: Correct.

3 Okay, that concludes the sections. Did anyone
4 have any other comments on Part 3 before we conclude this
5 interested parties meeting?

6 With that I would certainly like to thank all of
7 you for attending. There will be a transcript of this
8 meeting, and it will be placed on the Web within --
9 probably as soon as he can get it. Thank you all.

10 MS. RUWART: Thank you.

11 (The proceedings concluded at 1:50 p.m.)
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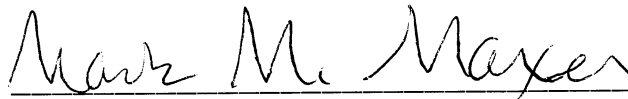
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